



# The Public Utilities Commission of Ohio

*Monitoring marketplaces and enforcing rules to assure safe, adequate, and reliable utility services.*

Ted Strickland, Governor  
Alan R. Schriber, Chairman

Commissioners

Ronda Hartman Fergus  
Valerie A. Lemmie  
Paul A. Centolella  
Cheryl Roberto

April 1, 2009

The Honorable Gary Locke  
Secretary, U.S. Department of Commerce  
Office of the Secretary  
US Department of Commerce  
1401 Constitution Ave, N.W.  
Washington, DC 20230

The Honorable Tom Vilsack  
Secretary, U.S. Department of Agriculture  
Office of the Secretary  
US Department of Agriculture  
1400 Independence Ave., S.W.  
Washington, DC 20250

The Honorable Anna Gomez  
Acting Assistant Secretary, Deputy Assistant Secretary for Communications and Information  
Office of the Assistant Secretary, National Telecommunications Information Administration  
US Department of Commerce  
1401 Constitution Ave, N.W.  
Washington, DC 20230

Secretary Locke, Secretary Vilsack, and Assistant Secretary Gomez:

The “American Recovery and Reinvestment Act of 2009 (ARRA) charges the National Telecommunications Information Administration (NTIA) and the Rural Utilities Service (RUS) with the task of efficiently disbursing \$6.85 billion dollars via grants for broadband infrastructure and adoption programs in under 18 months. Both agencies face incredible challenges. The Ohio Commission recognizes that NTIA must focus on the DTV transition during the most critical period for disbursements. With limited staff, the NTIA’s challenges become even greater. Further, RUS staff is fully occupied disbursing funds from previously authorized programs. It may be impossible for either to complete the tasks assigned under ARRA without significant staff expansion. Given the incredibly compressed timeframe, it will be virtually unmanageable to review the anticipated thousands of applications most predict both will receive, much less rank the proposals according to ARRA-specified criteria, disburse the funds, and monitor grant specific implementations.

The States can help. As the National Association of Regulatory Utility Commissions (NARUC) pointed out in its letter to you, “Congress,<sup>[1][1]</sup> GAO<sup>[2][2]</sup> and even outside commentators<sup>[3][3]</sup> have

[1][1]

ARRA § 6001 specifies that the “Assistant Secretary may consult a State, the District of Columbia, or territory . . . with respect to (1) the identification of areas described in subsection (b)(1) or (2) located in that State; and (2) the allocation of grant funds within that State for projects in or affecting the State.” Indeed, the Conference report characterizes § 6001 as “direct[ing] the NTIA to consult with States”, and specifies that conferees “expect and intend that the NTIA...will seek advice and assistance from the States in reviewing grant applications, as long as the NTIA retains the sole authority to approve the awards.” The “Broadband Data Services Improvement Act,” Pub. L. 110–385, 122 STAT. 4096 (10/10/08),

recognized that these tasks *cannot* be accomplished without State assistance.” The Ohio Commission agrees with NARUC and believes that the best way to assure the bulk of the stimulus funds get targeted and expended efficiently is to, as Congress directed, rely extensively on the States. The State of Ohio has intimate knowledge of our communications environment, geography, and demographics along with every incentive to make certain the money is not wasted and therefore, properly targeted.

Due to the State of Ohio’s in-depth knowledge about the areas covered and inherent incentive to do the job right, both agencies should structure the program to ensure the State of Ohio’s involvement. They should ask Ohio’s Governor Strickland to specify an entity to review and rank all applications for all in-State projects based on NTIA/RUS criteria. As the statute requires – NTIA (and RUS) will make the final decisions on the State recommendations and will disburse funds, assuming sufficient projects are recommended.

The conference report specifies Congress expects NTIA to “assist the States in post-grant monitoring to ensure that recipients comply fully with the terms and conditions of their grants.” The Stimulus bill allows NTIA to dedicate up to 3% for administration of the programs. Like NTIA, the State of Ohio may likely need some temporary resources to help with grant review as well as to audit/monitor and report back to the federal agencies on implementation. The Ohio Commission believes that NTIA and RUS should allow sufficient funds to support states to do just that.

The Ohio Commission agrees with NARUC that involving the states in the review of projects for that state saves resources, puts the people with the information needed to make reasonable and rapid decisions in a strong advisory role, provides an additional layer of accountability, and significantly increases the chance that the money will actually get disbursed, as States will have proper incentives to complete the task. The State of Ohio stands ready to assist NTIA and RUS with this important task.

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also funded by ARRA, at §106(i) is even more explicit, specifying that NTIA cannot give any entity funds UNLESS it is “the single eligible entity in the State that has been designated by the State to receive a grant under this section.” {Emphasis Added} The conference report also specifies Congress expects NTIA to “assist the States in post-grant monitoring to ensure that recipients comply fully with the terms and conditions of their grants.”

[2][2] *American Recovery and Reinvestment Act; GAO’s Role in Helping to Ensure Accountability and Transparency*, Statement of Gene L. Dodaro, Acting Comptroller General of the United States, Testimony before the Committee on Homeland Security and Governmental Affairs, at 8 (GAO-09-453T March 5, 2009) In report after report, GAO has highlighted the need to minimize fraud, waste, and abuse in contracting by, among other things “contracting with state and local program officials and auditors in the planning and execution of contracts, agreement, and audits and other reviews.”

[3][3] See, e.g., Bolen, Cheryl, *Carriers Say Net Neutrality Rules Will Stifle Build Out of Broadband*, BNA Daily Report (March 2, 2009) (Verizon Urges State Participation. Thomas Tauke, executive vice president . . . at Verizon, said . . . it was important to encourage states to play a role and ensure that the money is used appropriately.); Barbagallo, Paul, *Local-level Involvement Encouraged as Part of ARRA Grant Program*, TR’s State NewsWire (March 17, 2009) (“The NTIA and RUS can consult with state officials in developing criteria and evaluating applications received from bidders, and both agencies have made it clear that they intend to do that, [said T. Lay, partner at the D.C. law firm of Spiegel & McDiarmid]”); Stanton, Lynn, *Wide Eligibility, State Help Advised for Broadband Stimulus Grants*, TR’s State NewsWire (March 17, 2009) “In considering applications for grants . . . NTIA, along with [RUS], should look to the states for help in sorting through and prioritizing what are expected to be thousands of applications, panelists advised yesterday . . . As for a state advisory role on the ARRA broadband programs, Ms. Goldman said, “A strong state or local role is very important in the process” to help NTIA prioritize the expected thousands of applications.”)

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Sincerely,



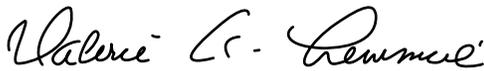
Alan R. Schriber  
Chairman



Paul A. Centolella  
Commissioner



Ronda Hartman Fergus  
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Valerie A. Lemmie  
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ARS/MT:js

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